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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/052,084	01/18/2002	Frank Jay Hague	6653.36001	9828

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DECKER, JONES, MCMACKIN, MCCLANE, HALL &
BATES, P.C.
BURNETT PLAZA 2000
801 CHERRY STREET, UNIT #46
FORT WORTH, TX 76102-6836

EXAMINER

WEINSTEIN, STEVEN L

ART UNIT

PAPER NUMBER

1761

DATE MAILED: 04/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/052,084	Applicant(s) HAGUE, FRANK JAY	
	Examiner Steven L. Weinstein	Art Unit 1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
4a) Of the above claim(s) 5-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/18/02</u> . | 6) <input type="checkbox"/> Other: _____ |

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Applicants election of Group I, claims 1-4 in the response filed 3/15/04 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP sec. 818.03 (a)).

Accordingly, claims 5-9 are withdrawn from further consideration as being drawn to non-elected inventions.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ganoe (3,368,528) in view of Lynch (6,033,715) or Lynch in view of Ganoe further in view of applicants admission of the prior art as disclosed on page 1 of the specification, further in view of Sherrill (5,673,653) Frudakis et al (6,165,474) Andrson et al (6,277,420), Axelarod (5,476,069).

In regard to claim 1, Ganoe discloses a product for pets comprising a plurality of layers of animal skin formed from a single layer of animal skin which has been folded to obtain a plurality of layers formed in the shape of a recognizable, real life, three dimensional article to simulate that article and wherein each layer is located adjacent to another said layer (see e.g. fig 2). Claim 1 differs from Ganoe in the particular conventional skin used to make the product and the particular shape of the product. Claim 1 recites the skin is pig skin whereas Ganoe uses the generic term "raw hide"

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(which can represent skin from any animal). In any case, as evidenced by Lynch, it was conventional in the art to employ pig skin in forming various pet products including shaped pet products. Lynch discloses the pig skin has advantages over other skins including being more digestible. To modify Ganoë and substitute one conventional skin material for another conventional skin material, for among other reasons, its better digestibility would therefore have been obvious. As for the shape, the particular shape one chooses to impart to the product is seen to have been an obvious matter of choice and/or design, especially since, as disclosed by applicants admission of the prior art, that it was known to give dogs real pig ears. Similarly, employing Lynch as the primary reference, Lynch discloses shaping pig skin into shapes that look like and simulate real life three dimensional objects. Claims 1 differs from Lynch in the recitation that the product is multilayered^e; Lynch being silent in this regard. Ganoë can be relied on to teach it was well established in the art to provide a simulative, three dimensional animal skin product for pets wherein the product is layered. To modify Lynch, if necessary, and provide the pig skin in a layered shaped simulation would therefore have been obvious. In regard to the animal shape (and pig ear shape in claims 3 and 4), as noted above it would have been an obvious matter of choice and/or design to fashion the skin into any simulative design desirable. Sherill and Frudakis et al can be relied on as further evidence to teach folding and shaping animal skin, Anderson et al teaches pig material and Axelrod shaping. In regard to claim 2, Lynch teaches it was conventional to have treated the pig skin with smoke (e.g. liquid smoke) and the temperatures and times used in the process would have created a sterilized product. (e.g. 160-165°F for 6-8

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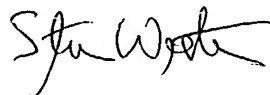
hours). Note, too, it is, of course, notoriously old to provide sterilized products if such product are subjected to bacterial contamination and to be place in the mouth.

Any inquiry concerning this communication from the examiner should be directed to Steven Weinstein whose telephone number is (571) 272-1410. The examiner can generally be reached on Monday-Friday 7:00am to 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is (571) 272-1201.

S. Weinstein/af
April 14, 2004



STEVE WEINSTEIN
PRIMARY EXAMINER 1761
4/16/04